

ESTTA Tracking number: **ESTTA775301**

Filing date: **10/07/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	PRODUCTOS AVICOLAS DEL SUR, INC.		
Entity	Corporation	Citizenship	PUERTO RICO
Address	PMB 251 PO BOX 400 SANTA ISABEL, PR 00757 UNITED STATES		
Correspondence information	FERNANDO J ECHEGARAY PRESIDENT PRODUCTOS AVICOLAS DEL SUR, INC. PMB 251 PO BOX 400 SANTA ISABEL, PR 00757 UNITED STATES PLAZASI2009@GMAIL.COM Phone:787-845-2022		

Applicant Information

Application No	87016615	Publication date	09/27/2016
Opposition Filing Date	10/07/2016	Opposition Period Ends	10/27/2016
Applicant	TO RICOS LTD 14 St KM 48 Asomante Aibonito PR 00705 Aibonito, 00705 PR		

Goods/Services Affected by Opposition

Class 029. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Poultry
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Grounds for Opposition

No bona fide intent to use mark in commerce for identified goods or services	Trademark Act Section 1(b)
Applicant not rightful owner of mark for identified goods or services	Trademark Act Section 1
Fraud on the USPTO	In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)
Other	APPLICANT IS NOT THE OWNER OF THE MARK. APPLICANT INTENTIONALLY OMITTED TO DECLARED ON THE APPLICATION THAT THE MARK HAS BEEN USE IN COMMERCE SINCE YEAR 1977 BY A COMPETITOR.

Attachments	NOTICE OF OPPOSITION.pdf(1837607 bytes) PROOF OF SERVICE OF NOTICE OF OPPOSITION.pdf(541464 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Facsimile or email (by agreement only) on this date.

Signature	/fernando j echegaray/
Name	FERNANDO J ECHEGARAY
Date	10/07/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEL BOARD**

In the matter of trademark application Serial No. 87016615.

For the Brand Name: POLLO PICÚ.

Published in the Official Gazette on September 27, 2016.

PRODUCTOS AVÍCOLAS DEL SUR, INC.

Opposer

v.

TO RICOS, LTD

Applicant

NOTICE OF OPPOSITION

I. OPPOSER

1. The opposer is a corporation duly registered pursuant to Law No. 164 of December 16, 2009, as amended, known as “General Corporation Law”, of the Commonwealth of Puerto Rico.

- | | |
|------------------------------|---|
| a) Name: | Productos Avícolas del Sur, Inc. |
| b) Country of incorporation: | Puerto Rico |
| c) Business Address: | PMB 251 PO BOX 400
Santa Isabel, P. R. 00757 |

The opposer will sustain economic damages and be limited in use of a legitimate asset by the registration of the Brand Name shown in the above-identified application, and hereby presents opposition to its registration as requested pursuant to Trademark Act § 13 (15 U.S.C. § 1063).

II. JURISDICTION AND VENUE

2. The Trademark Trial and Appeal Board has jurisdiction to determine and decide the respective rights of registration on every case of opposition to a registration on the United States Patent and Trademark Office (“USPTO”) pursuant to Trademark Act § 17 (a) (15 U.S.C. § 1067 (a)).

III. FACTS

3. On April 27, 2016, To Ricos, LTD ("**the Applicant**") filed an application in the USPTO to register POLLO PICÚ brand and its distinctive graphic design or logo under the trademark application serial number mentioned above. In this application, the Applicant, falsely declares that they are the owner of this Brand Name.
4. The owner of the POLLO PICÚ brand and its logo is Productos Avícolas del Sur, Inc. ("**PAS**"), the Opposer. This brand and all its rights and titles were purchased by PAS on October 29, 2004 through a Bill of Sale executed between PAS and the Bankruptcy Trustee in the amount of US **\$13, 300,000.00**, for the acquisition of all the assets of the following corporations, under these consolidated cases:
 - a) In Re Industria Avícolas de Puerto Rico, Inc. ("**IAPRI**"), case no. 03-01146 (SEK);
 - b) In Re Procesadora de Granos de Puerto Rico, Inc. ("**Progranos**"), case no. 04-10016 (SEK) and
 - c) In Re Procesadora de Embutidos de Puerto Rico, Inc. ("**Preco**"), case no. 04-10017 (SEK).

Within the overall purchase price of the US **\$13,300,000.00**, POLLO PICÚ brand and other personal and intellectual properties were awarded to PAS for the value of US **\$300,000.00**. Please refer to Exhibit 1 "Bill of Sale executed between PAS and the Bankruptcy Trustee on October 29, 2004".

5. IAPRI registered POLLO PICÚ brand in the USPTO under the followings U.S. Registration Numbers: 1935015, 1498815 and 1494403.
6. POLLO PICÚ brand has been in the Puerto Rican market for over 39 years. It is a well-known Brand in Puerto Rico's market place. PAS will sustain a great loss of the value and the added value that the Brand Name of Pollos Picú has attained if this registration is awarded to the Applicant. Great economic efforts have been invested by IAPRI and later by the Opposer, for many years in advertisement and publicity campaigns in order to place and maintain the Brand Name of Pollos Picú were it stands today.
7. The Applicant has never been the owner of the POLLO PICÚ brand or mark. Since the year of 1977, when Pollos Picú Brand entered the Puerto Rico market, the Applicant has been a competitor in the sale of chicken meat in the island of Puerto Rico, first against IAPRI (original owner of Pollos Picú brand) and later against PAS (current owner), using their own chicken brand known as "To-Ricos". Please refer to Exhibit 2 where it shows photos of POLLO PICÚ and To-Ricos Brand Names used in commerce.
8. The Applicant based its filing for the registration with false information thru Trademark Act § 1 (b) (15 U.S.C. § 1051 (b)).
9. The Applicant is not entitled to use the Pollos Picú Brand Name in commerce as pursuant to Trademark Act § 1 (b)(3)(A) (15 U.S.C. § 1051 (b)(3)(A)). The Applicant is not the owner of POLLO PICÚ brand and never has been. The legitimate owner is PAS.

10. The Applicant does not meet the requirement of Trademark Act § 1 (b)(3)(B) (15 U.S.C. § 1051 (b)(3)(B)). Clearly the Applicant intention is to eliminate a future competitor. The Applicant has its own chicken brand in the Puerto Rico market in excess of 40 years. The Applicant has no intention of using the brand in any bona fide way.
11. The Applicant does not comply with the requirement of Trademark Act § 1 (b)(3)(C) (15 U.S.C. § 1051 (b)(3)(C)). The Applicant knows that the facts recited in the application are **not** accurate as it is required by this subparagraph. The Applicant falsely stated in the application that was the owner of the brand that is requesting its registration.
12. The Applicant has deliberately omitted to inform that PAS has the right to use the Brand in commerce in violation of Trademark Act § 1 (b)(3)(D) (15 U.S.C. § 1051 (b)(3)(D)). The Applicant knows since year 1977 that IAPRI had the right to use the POLLO PICÚ brand in commerce. And that PAS since year 2004 has the right to use this brand in commerce and has made use of it. This omission of information by The Applicant shall be considered a willful false statement.
13. The declaration on the PTO Form 1478 (Rev 09/2006)/OMB No. 0651-0009(Exp 02/28/2018) clearly states the signatory disclosures obligations and consequences of false statements, as pray: “The Signatory believes that:[...] an application under 15 U.S.C. § 1051 (b) [...]The signatory believes that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such

willful false statements and the like may jeopardize the validity of the application or any registration resulting there from, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.”

14. Undoubtedly, the Applicant intentionally omitted to inform in the application that PAS had the right to use the mark in commerce and that PAS was the owner of the brand name.

15. The Applicant deliberately and knowingly declares in the application that they are the owner of the brand name when they knew that the owner of the brand name was PAS which constitutes a willful false statements and a Federal offense as pursuant of Title 18 U.S.C. § 1001.

16. In addition, the Applicant is liable to PAS, in a civil action, due to the act of procuring the registration in the USPTO of the POLLO PICÚ brand with false declarations as pursuant to Trademark Act § 38 (15 U.S.C. § 1120).

17. On July 18, 2016, PAS filed an application at the USPTO to register the Brand POLLO PICÚ under trademark application serial no. 87107513, as the owner of a trademark used in commerce pursuant to Trademark Act § 1 (a) (15 U.S.C. § 1051 (a)).

18. There can be any doubt of the irreparable economic damage that PAS will suffer if this registration is awarded. Besides of being an unjust enrichment since, the Applicant would take full advantage of all the economic investment of more than \$10 Million Dollars made to establish and maintain the brand for the past 39 years without any cost on their behalf. For the reasons expressed, we plea that this registration be denied.

FOR THE REASONS STATED ABOVE, we respectfully request that this opposition be awarded and the registration of the Brand Name “POLLO PICÚ” be denied to the Applicant, as requested by To Ricos, LTD under trademark application serial no. 87016615.

By



Fernando J. Echegaray
President

Date: September 27, 2016

EXHIBIT 1

CASE NUMBER: Trademark application Serial No. 87016615.

TITLE: PRODUCTOS AVÍCOLAS DEL SUR, INC. v. TO RICOS, LTD.

PARTY OFFERING THIS EXHIBIT: PRODUCTOS AVÍCOLAS DEL SUR, INC.

BILL OF SALE

This Bill of Sale dated as of October 29, 2004 given by Wigberto Lugo Mender, as the designated Bankruptcy Trustee in the consolidated cases stated below ("Seller") to Productos Avícolas del Sur, Inc., a Puerto Rico corporation represented herein by its President, Fernando Echegaray Daleccio ("Purchaser").

WITNESSETH:

WHEREAS, Seller is the Chapter 7 Trustee designated by the U.S. Bankruptcy Court for the District of Puerto Rico in the following consolidated cases, and is authorized by the U.S. Bankruptcy Code to sell assets of their bankruptcy estates:

- In Re Industrias Avícolas de Puerto Rico, Inc. (hereinafter designated "IAPRI"), case no. 03-01146 (SEK),
- In Re Procesadora de Granos de Puerto Rico, Inc. (hereinafter designated "Progranos"), case no. 04-10016 (SEK) and
- In Re Procesadora de Embutidos de Puerto Rico, Inc. (hereinafter designated "Preco"), case no. 04-10017 (SEK);

WHEREAS, on October 13, 2004 Seller sold at public auction certain assets of IAPRI, Progranos and Preco, under the terms set out in the "Notice of Sale of Property at Public Sale Free and Clear of Liens" dated September 29, 2004, copy of which is attached hereto as "Exhibit A";

WHEREAS, Purchaser attended the public auction and submitted the winning bid for all assets on sale for a global price of \$13,300,000;

WHEREAS, Seller and Purchaser have executed on this date public deeds consummating the transfer to Purchaser of all real estate assets subject of the sale (including fixtures and other goods deemed by law to be immovable property whether by nature or destination); and

WHEREAS, the parties now desire to evidence the conveyance, transfer, assignment and delivery to Purchaser of all other assets subject of the sale, consisting of the personal property and intellectual property rights described below.

NOW THEREFORE, for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged:

1. The Seller hereby sells, conveys, transfers and assigns to Purchaser all rights, title and interest of IAPRI, Progranos and Preco, respectively, in and to all of the personal property and intellectual property rights more particularly described in the exhibits attached to and made part of this Bill of Sale, in their "as is" condition, free and clear of all liens and encumbrances, to wit:

Exhibit 1.3: IAPRI and Preco machinery and equipment.
Exhibit 1.4: IAPRI motor vehicles.
Exhibit 1.12: "Pollo Picú" trademark(s) and all related intellectual property rights.
Exhibit 4.2: Progranos machinery and equipment.

- Frank*
2. The sale is made pursuant to all terms and conditions set out in the Notice of Sale attached hereto as Exhibit "A", which are adopted by reference as if fully set out herein. Purchaser particularly acknowledges that the sale is made "as is" and "where is" without representation or warranty of any kind, express or implied, including (without limitation) any representation or warranty of merchantability or fitness for any particular purpose; and no warranty as to the accuracy or completeness of the attached descriptions of any assets sold.
 3. The parties agree that, for purposes of allocating the global purchase price referenced above between the real estate transferred by public deed, and the personal property and intellectual property rights transferred hereby, the assets transferred hereby are collectively valued at \$300,000.00.
 4. The execution of this Bill of Sale shall constitute proper delivery to Purchaser of the assets transferred hereby, which from the date of execution hereof shall be in the exclusive possession of Purchaser.

IN WITNESS WHEREOF, Seller and Purchaser have executed this instrument on the day and year above written.

PRODUCTOS AVÍCOLAS DEL SUR, INC.

By:

Name: Fernando Echegaray Daleccio
Title: President

Wigberto Lugo Mender

Affidavit No. 6659

Signed before me by Fernando Echegaray Daleccio, of legal age, married, businessman and resident of Aibonito, Puerto Rico, as President of Productos Avícolas del Sur, Inc.; and by Wigberto Lugo Mender, of legal age, married, lawyer and resident of San Juan, as bankruptcy trustee for Industrias Avícolas de Puerto Rico, Inc., Procesadora de Granos de Puerto Rico, Inc. and Procesadora de Embutidos de Puerto Rico, Inc., both personally known to me, in San Juan, Puerto Rico, this 29th day of October, 2004.

[Signature]
Notary Public

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

Exhibit A
Bill of Sale

IN RE:

INDUSTRIAS AVICOLAS DE PUERTO
RICO, INC.

DEBTOR

IN RE:

PROCESADORA DE GRANOS DE
PUERTO RICO, INC.

DEBTOR

IN RE:

PROCESADORA DE EMBUTIDOS DE
PUERTO RICO, INC.

DEBTOR

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CASE NO. 03-01146(SEK)

CHAPTER 7

CASE NO. 04-10016 (SEK)

CHAPTER 7

CASE NO. 04-10017 (SEK)

CHAPTER 7

NOTICE OF SALE OF PROPERTY AT PUBLIC SALE
FREE AND CLEAR OF LIENS

WIGBERTO LUGO MENDER, the undersigned Chapter 7 trustee ("trustee"),
represents that he will sell at public sale property of estate of debtors Industrias Avícolas de
Puerto Rico, Inc. ("IAPRI"), Procesadoras de Granos de Puerto Rico, Inc. ("Progranos"), and/or
Procesadoras de Embutidos de Puerto Rico, Inc. ("Preco") as described below:

PROPERTY DESCRIPTION

LOTS I – POULTRY PROCESSING PLANT KNOWN AS EMPRESAS PICU & PROCESADORA DE EMBUTIDOS DE PUERTO RICO

Property Name	Registry #	Description/Reference
✓ 1. IAPRI Processing Plant Building Rights and Improvements.	Prop. #8950, Coamo Refer also to copy of lease contract	Exhibits 1.1 and 1.2
2. IAPRI Machinery, Equipment, Furnitures & Mixtures and vehicles.	Security Agreement recorded on July 9, 2001	Exhibits 1.3 and 1.4
✓ 3. IAPRI Club (Torres)	Prop. #1466, Coamo.	49.86 "Cuerdas", Exhibits 1.5 and 1.6
✓ 4. IAPRI Hatchery I	Prop. #6433, Coamo plus machinery and equipment	3.00 "Cuerdas", Exhibits 1.3, 1.7 and 1.9
✓ 5. IAPRI Hatchery II	Prop. #359, Coamo	87.4072 "Cuerdas" Exhibits 1.8 and 1.9
6. IAPRI Club (Passalacqua)	Prop. #8952, Coamo with improvements	27.1610 "Cuerdas" Exhibits 1.10 and 1.11
7. IAPRI Trademark and interest in operating rights	Registration number 1935015 at U.S. Patent and Trademark Office.	Exhibit 1.12
8. PRECO Machinery, Equipment, Furnitures & Fixtures	Security Agreement recorded on November 6, 2003	Exhibit 1.3

This lot comprises personal and real property pertaining to these estates. Within the equipment installed at these premises there is certain machinery and equipment that has been leased from Popular Auto under a financing sales type lease agreement. The following equipment and property leased from Popular Auto **IS NOT INCLUDED** within the items made part of this sale.

1. Price Labber 1999 (Contract #02-600-85117-00-82302).
2. Price Labber 1999 (Contract #02-600-85117-00-82303).
3. John Deere Tractor 1999 (Contract #02-600-85117-00-85639).
4. Industrial Equipment [Equipo para recogido de pollo] (Contract #02-600-85117-00-82292).
5. Industrial Equipment [Máquina para mollejas] (Contrato #02-600-85117-00-82296).
6. Electric Generator [planta eléctrica] (Contract #02-600-85117-00-82297)

LOT II - OTHER REAL ESTATE LOCATED AT SANTA ISABEL

Lot of Land commonly known and named as Cayures property located at Rio Jueyes Ward in the municipality of Santa Isabel. This lot is comprised of 209.56 cuerdas. Copy of the title searches for these properties and of its last appraisal report is enclosed as Exhibits 2.1 and 2.2. (9)

LOT III - OTHER REAL ESTATE LOCATED AT COAMO

2 Lots of Land (Property ["Finca"] #1227 and #1179) commonly known and named as Vasallo I & II at Palmarejo Ward in the municipality of Coamo. These lots are comprised of 183.22 "cuerdas". Copy of the title searches for these properties and of its last appraisal report is enclosed as Exhibits 3.1 and 3.2. (10) (11)

LOT IV - PROGRANOS PROPERTIES

Property Name	Registry No.	Description/Reference
1. Lease Rights for Land located at Guanica	Prop. # 471, Guánica	Copy of lease contract – Exhibit 4.1
2. Buildings and Mill located at Guánica	Prop. # 4747, Guánica	Copy of edification deed – Exhibit 4.2
3. Machinery, Improvements, Equipment including vehicles.	Security Agreement recorded on November 6, 2003	Exhibit 4.3

Various interested parties have presented firm offers for the purchase of some or all of the above described real and personal properties. Because there may be other parties interested in purchasing the above described properties, the undersigned trustee has scheduled a public sale to which all potential buyers of these properties will be invited. This sale will be conducted pursuant to the following:

TERMS AND CONDITIONS:

1. Sale shall be free and clear of liens, except as noted in the Lien and Encumbrances section of this notice; such liens, if any, shall attach to proceeds. See 11 U.S.C. § 363(f). Payments to the secured and administrative creditors participating in this sale are detailed below.
2. The trustee will complete the sale contemplated herein and adjudicate the sale to the best firm offeror upon the terms herein set forth. The minimum amount to be considered as a bonafide offer shall be \$11,000,000.00 for all property subject to this sale.
3. In the event that any party objects to this Sale, a hearing on said objection will be scheduled by the Honorable Court.
4. The auction may be conducted as to allow for bidding by lots or in bulk, at the sole discretion of the trustee. If offers are received per lots, the individual sale by lots shall also aggregate

\$11,000,000.00 for all lots subject to the distribution of the proceeds to the creditors participating in this sale. Sales adjudicated at the auction are final and shall constitute an enforceable contract between the trustee and the buyer(s).

5. At the public auction a non-refundable deposit of no less than 5% of the sales price shall be required from the bidder to whom the sale is adjudicated, payable in check, upon adjudication at the auction. In the event that a non-refundable deposit is forfeited, the estate will receive 10% of the deposit, The Bank of Nova Scotia will receive 45% of the deposit and The Economic Development Bank (EDB) will receive 45% thereof.
6. This sale is made "as is" and "where is" without representation or warranty of any kind, express or implied, including, without limitation, representation or warranty of merchantability or of fitness for any particular purpose; and no warranty is made as to the accuracy of the above description of any assets for sale. The buyer is responsible of complying with all laws and regulations for the operation of the business, including but not limited to the Consent Decision and Order with the United States Department of Agriculture docketed under PPIA 04-0005. Copy of this decision is included as Exhibit 1.12. Offeror and prospective bidders are hereby advised that the Consent Decision and Order mentioned above has not been revoked, that the same is in full force and effect and that the successful bidder must comply with the same. The Trustee makes no representations regarding said Consent Decision and Order. Offeror and prospective bidders should seek specialized assistance in analyzing said Consent Decision and Order. Buyer is also responsible of procuring and obtaining the transfers of the operating permits required to operate the business. All risk of loss shall pass to the buyer upon adjudication of the sale and closing of the sale deeds by the trustee. Upon closing of the deeds on sale of the property, the prevailing buyer waive, release and hold harmless the trustee, the estate and the creditors participating in this sale of any claims, damages or assessment on this transaction.
7. Full payment of the balance of the purchase price and execution of the closing deeds shall be made on or before Friday, October 29, 2004, at 2:00PM at the law offices of Goldman Antonetti & Córdova, P.S.C. located at 250 Muñoz Rivera Avenue, Fourteenth Floor, Hato Rey, Puerto Rico. Compliance with this condition is essential for adjudication of this sale at the public auction. In the event of an objection to this sale is filed, payment of the balance of the purchase price and execution of the closing deeds shall be made not more than eleven (11) days after final adjudication of this sale by the Court.
8. Buyer shall take possession of the property acquired immediately upon full payment of the purchase price and upon closing of the sale deeds. Any preservation expenses accrued on this property after the final adjudication of the sale will be at the cost of the buyer.
9. Failure to pay the full price or to execute the closing deeds on the property as and when provided herein shall entitle the trustee to void the sale, and the deposit as well as any other money given shall be deemed forfeited. In the event that a deposit is forfeited, the estate will receive 10% of the deposit, The Bank of Nova Scotia will receive 45% of the deposit and The Economic Development Bank (EDB) will receive 45% thereof.

10. The properties subject of this sale may be inspected by potential buyers and other parties in interest upon appointment with the undersigned trustee. An auction date has been scheduled for Wednesday, October 13, 2004, at 2:00 PM and shall be conducted at Ochoa Building, 500 Tanca Street, Lobby Level, Old San Juan, Puerto Rico.

LIENS AND ENCUMBRANCES

Per the title search included as Exhibits to this Notice of Sale the personal and real property described is subject to the following liens. All references in the following charts marked "BNS & EDB" indicate a 50% *pari passu* interest of EDB up to the aggregate principal amount of \$2,000,000.00.

LOT I

Property name & Registry no.	Appraisal & date	Liens & Encumbrances
1. IAPRI Processing Plant Building Prop. #8950, Coamo	\$2,430,000 4/24/97	Lessor Corp. Desarrollo Agrícola de PR \$2,000,000 The Bank of Nova Scotia ("BNS")
2. IAPRI Machinery & Equipment	\$10,475,000 4/24/97	BNS Security Agreement
3. IAPRI Club (Torres) Prop. #1466, Coamo	\$598,000 3/20/03	\$275,000 BNS & Economic Development Bank ("EDB") \$225,000 BNS & EDB \$360,000 BNS & EDB \$227,216.87 Embargo ELA Income Tax 6/20/02 \$799,108.34 Embargo ELA Payroll Tax 6/20/02 \$1,428,585.84 Embargo ELA Payroll Tax 6/26/02 \$28,610.00 Embargo CFSE 12/13/02 \$506,039.86 Embargo ELA 6/26/03 \$115,967.70 Embargo CFSE 5/19/03 \$452,092.46 Embargo CFSE 6/15/03 \$115,967.70 Embargo CFSE 2/27/04
4. IAPRI Hatchery I Prop. #6433, Coamo	\$2,000,000	\$300,000 BNS \$1,300,000 BNS \$3,150,000 Corp. de Crédito Agrícola \$1,140,000 BNS \$28,610.00 Embargo CFSE 11/8/02 \$452,092.46 Embargo CFSE 3/14/03 \$115,967.70 Embargo CFSE 5/19/04 \$452,092.46 Embargo CFSE 3/14/03 \$115,967.70 Embargo CFSE 1/22/04
5. IAPRI Hatchery II Prop. #359, Coamo	\$1,300,000 3/20/03	\$660,000 BNS & EDB \$540,000 BNS & EDB \$860,000 BNS & EDB \$28,610.00 Embargo CFSE 11/8/02

		\$452,092.46 Embargo CFSE 3/14/03 \$115,967.70 Embargo CFSE 5/19/04
6. IAPRI Club (Passalacqua) Prop. 8952, Coamo	\$543,000 3/20/03	\$110,000 BNS \$90,000 BNS \$140,000 BNS \$28,610 Embargo CFSE 11/8/02 \$452,092.46 Embargo CFSE 3/2/03 \$115,967.50 Embargo CFSE 1/20/04 \$257,944.57 Embargo CFSE 7/14/04
7. IAPRI Trademark	None available	BNS Security Agreement over Intellectual Property. 10/31/03
8. PRECO Machinery, Equipment, Furniture & Fixture	None available	BNS Security Agreement

LOTS II & III

Property Name & Registry No.	Appraisal & Date	Liens & Encumbrances
1. IAPRI Cayures Prop. #171, Santa Isabel	\$3,350,000 3/20/03	\$2,000,000 BNS & EDB
2. IAPRI Vassallo I Prop. #1227, Coamo	\$1,465,000 for both Vassallo I & II 3/20/03	\$600,000 BNS & EDB \$28,610.00 Embargo CFSE 3/4/03 \$438,503.15 Embargo CFSE 3/4/03 \$452,092.46 Embargo CFSE 3/4/03 \$115,967.70 Embargo CFSE 5/19/04 \$115,967.70 Embargo CFSE 2/27/04
3. IAPRI Vassallo II Prop. #1179, Coamo	\$1,465,000 for both Vassallo I & II 3/20/03	\$400,000 BNS & EDB \$87,843.66 Embargo CFSE 3/1/01 \$227,216.87 Embargo ELA Income Tax 6/20/02 \$799,108.34 Embargo ELA Income Tax 6/20/02 \$28,610 Embargo CFSE 12/12/02 \$1,428,585.24 Embargo ELA Payroll Tax 12/13/02 \$452,092.46 Embargo CFSE 6/15/03 \$115,967.70 Embargo CFSE 5/19/04 \$257,944.57 Embargo CFSE 6/15/04 \$115,967.57 Embargo CFSE 2/4/04 \$257,944.57 Embargo CFSE 7/15/04

LOT IV

Property Name & Registry No.	Appraisal & Date	Liens & Encumbrances
1. Leasehold interest, Buildings & Fixtures Prop. #4747, Guánica	\$4,500,000 3/19/97	\$4,000,000 BNS
2. Machinery & Equipment	\$5,200,000 3/19/97	BNS Security Agreement
3. Machinery & Equipment	\$5,200,000 3/19/97	BNS Security Agreement

Creditors and parties in interest are urged to review the documents enclosed with the notice of sale to ascertain the correct description of the liens perfected against the properties subject of this sale. In summary, the liens and encumbrances affecting the properties subject of this sale are as follows.

The Bank of Nova Scotia (BNS) holds a first rank secured claim over all real and personal property pertaining to this estate as further detailed above. The amount due on account of this secured claim is \$19,964,869.26 as of August 31, 2004.

The Economic Development Bank (EDB) holds a first rank secured claim over certain real property pertaining to this estate as further detailed above and a super priority in payment over all administrative claims of the estate. On those properties that are marked "BNS & EDB" the EDB shares in 50% *pari passu* with the BNS's mortgages up to the aggregate principal sum of \$2,000,000 plus interest. The amount due on account of this secured claim to EDB, as per the proof of claim filed by this secured creditor is in the principal amount of \$2,000,000.00 plus interest accrued.

There is a recorded lease contract(s) with Corporación para el Desarrollo Agrícola de Puerto Rico, which is now Administración Servicios y Desarrollo Agropecuario ("ASDA") & Puerto Rico Department of Agriculture, over property #8950 and #171, including land and building which also includes machinery and equipment property of ASDA as detailed in Exhibit C to the lease agreement. Copy of the lease contract(s), with its recorded extension, is enclosed to this notice as Exhibit 1.1 and 1.2. This contract together with its extension will remain in full force and effect in regard to this property and the purchaser agrees to comply with the terms of this contract as if it was the bankruptcy estate herein.

There is a recorded lease contract(s) with the Puerto Rico Ports Authority for the exercise of certain rights and leasing of certain facilities at Guanica Harbor currently in use for the business operations of Productos de Granos de Puerto Rico. Copy of the lease contract(s), with its recorded extension, is enclosed to this notice. This contract together with its extension will remain in full force and effect in regard to this property and the purchaser agrees to comply with the terms of this contract as if it was the bankruptcy estate herein.

There are several tax liens recorded pre-petition and post-petition by Corporación del Fondo del Seguro del Estado (CFSE) over certain real properties pertaining to this estate. The embargoes issued in favor of CFSE are as follows:

- a) \$452,092.46 on property #1466, #6433, #359, #1227 and #1179.
- b) \$28,610.00 and \$438,503.15 on property #1227 and \$257,944.57 on property #1179.
- c) \$115,967.70 on property #1466, #6433, #350 and #1179 and \$115,967.57 on property #1179 and for \$257,944.57 on property #1179.
- d) \$28,610.00 on property #1466, #6433, #359, #8952 and #1179 recorded in the Registry of Property in December 2002 and/or November 2002.

There are several tax liens recorded pre-petition and post-petition by the Puerto Rico Treasury Department (Treasury) over certain real properties pertaining to this estate. The embargoes issued in favor of Treasury as follows:

- a) \$87,843.66 on property #1179 recorded in the Registry of Property in March 1, 2001 and for \$115,967.70 which was presented in the Registry of Property on February 27, 2004.
- b) \$227,216.87, \$799,108.34 and \$1,428,585.84 on property #1466 recorded in the Registry of Property in June, 2002 and on property #1179 in December 13, 2002.
- c) \$506,039.86 on property #1466.

Mortgage in favor of Corp. de Crédito Agrícola for the principal amount of \$3,150,000.00, due on demand subscribed on May 5, 1982 regarding IAPRI Hatchery I property #6433. As informed by the debtor and confirmed with the confirmed reorganization plan, there are no amounts due on account of this mortgage note.

Centro de Recaudación de Ingresos Municipales has certified as the outstanding balance due in real property taxes the amount of \$8,000.00. Breakdown of this debt is enclosed herein.

PROCEEDS AND DISTRIBUTION OF PROCEEDS

The secured creditor, BNS, has consented to the sale of personal and real property as detailed in Lots I, II, III and IV, free and clear of liens, pursuant to the provision 11 U.S.C. § 363(f)(2) upon payment of the dividend amount detailed herein.

The secured creditor, EDB, has consented to the sale of the real property described in Lots I and II, other than the property leased from ASDA pursuant to Exhibit 1.1, as detailed herein, free and clear of liens, pursuant to the provision 11 U.S.C. § 363(f)(2) upon payment of the dividend amount detailed herein.

Tax liens in favor of CFSE and Treasury will be treated pursuant the provisions of 11 U.S.C. Section 724. These creditors will receive no distribution from the proceeds of the sale since BNS and EDB, holders of allowed claims secured by a consensual lien on property, are senior to said tax liens.

No dividend has been allotted to Corp. de Crédito Agrícola since there is no amount due on account of the mortgage notes recorded. This mortgage note is to be canceled by the trustee at the time of closing of the sales deed with stamps, recording and notarial fees for this cancellation to be paid from the gross proceeds.

Gross proceeds have been fixed and allotted between the estate and the secured and administrative creditors for purposes of completing the sale as follows.

First, all selling and notarial expenses are to be paid as follows:

- a) Internal revenue stamps to be cancelled in connection with the originals of each deed will be paid from the gross proceeds at the time of closing. The estimate therefore, assuming an aggregate sale price of \$11,000,000.00, is approximately \$11,000.00.
- b) Internal revenue stamps to be cancelled in connection with the first certified copy of each deed will be paid from the proceeds of the sale. The estimate therefore, assuming an aggregate sale price of \$11,000,000.00, is approximately \$5,500.00.
- c) Internal revenue stamps and vouchers to be cancelled in connection with the filing and recordation of each deed will be paid by the purchasers. The estimate therefor, assuming an aggregate sale price of \$11,000,000.00, is \$56,000.00.
- d) All notary fees in connection with the foregoing sale will be paid by The Bank of Nova Scotia provided it selects the notary.

Accrued rent payable to the Puerto Rico Ports Authority on account of the lease agreement for the Guanica Harbor facilities, in the approximate amount of \$200,000.00, will be paid in cash and in full from the gross proceeds of the sale. Accrued rent payable to Corporación para el Desarrollo Agrícola de Puerto Rico, which is now Administración Servicios y Desarrollo Agropecuario ("ASDA") & Puerto Rico Department of Agriculture for post-petition rent in the approximate amount of \$75,000.00 on account of the lease agreement for the Coamo facilities will be paid in cash and in full from the gross proceeds of the sale. Any and all pre-petition rent will be paid with all other allowed unsecured claimants at pro-rata subject to the provisions of 11 U.S.C. Section 726. From the gross proceeds on this sale the trustee will pay at the time of closing all real property taxes affecting these properties.

From the gross proceeds and after payment of all notarial expenses and accrued rent, The Bank of Nova Scotia will receive on account of its secured debt no less than \$8,152,000.00 and the Economic Development Bank will receive on account of its secured debt the amount of not less than \$2,000,000.00 plus interest accrued up to payment date. The herein estate will receive a fix amount of 5% of gross proceeds on sale. In the event that a higher value is realized at the public sale, The Bank of Nova Scotia will receive 95% and the bankruptcy estate 5% of any additional proceeds on the sale. The additional dividend payable to The Bank of Nova Scotia, if any is realized, is limited to the full amount of the allowed secured claim and it would only accrue if sale of the assets as a whole or by lots is over \$11,000,000.00 and the EDB, ASDA and the Puerto Rico Ports Authority receive the payments detailed in this distribution.

Trustee's commissions will be paid from the share of the sale proceeds corresponding to the estate and will be computed pursuant to 11 U.S.C. § 326, with allowance of said compensation subject to notice, hearing and Court approval. The bankruptcy estate share of these proceeds will be subject to distribution pursuant the provisions of 11 U.S.C. § 726.

NOTICE IS HEREBY GIVEN that no other liens or secured creditors have been identified that may encumber the real and personal property subject of this sale. Any purported creditor with a valid and enforceable lien over the assets of this estate shall inform the trustee or object to this sale within the next **TEN (10) DAYS** from the Date of this Notice, in order to have its claim considered within the sale of these assets. Objections will be waived unless properly raised within the time period provided herein.

NOTICE IS HEREBY GIVEN unless any other creditor or other party in interest files a written objection, with a copy thereof served to the trustee, within **TEN (10) DAYS** from the Date of this Notice, the trustee will conduct the sale contemplated herein and will adjudicate the sale(s) upon the terms herein set forth. Should a timely objection be filed, a hearing on such objection will be scheduled by the Court. Objections will be waived unless properly raised within the time period provided herein.

PROSPECTIVE BIDDERS AND PARTIES IN INTEREST are strongly encouraged to carefully review this Notice of Sale, together with its exhibits. A full copy of this Notice, together with its exhibits, is available for inspection at the Clerk's Office of the United States Bankruptcy Court for the District of Puerto Rico.

I hereby Certify That: Copy of this notice with all the exhibits imaged in electronic media have been hand delivered to: the United States Trustee's Office, Ochoa Building, 500 Tanca Street, Suite 301, Old San Juan, Puerto Rico; and has been served by First Class certified mail to: Charles A Cuprill (Attorney for Debtor) 356 Fortaleza St. Second Floor San Juan, PR 00901; Cristian Bernaschina, Esq., (Attorney for Krisma PR, Inc.) Centro de Seguros Building Suite 407 701 Ponce de León Ave. San Juan, PR 00907; The Bank of Nova Scotia C/O Mildred Cabán, Esq., Goldman Antonetti & Cordova, P.S.C., P.O. Box 70364 San Juan, PR 00936-8364; The Economic Development Bank, C/O Ramón Coto Ojeda, Esq., P.O. Box 71449 San Juan, PR 00936-8549; ASDA & Puerto Rico Department of Agriculture, C/O Carmen D. Conde Torres, Esq., 254 San José Street 5th Floor Old San Juan PR 00901; Centro de Recaudación Ingresos Municipales, C/O Carmen P. Figueroa, Esq. P.O. Box 195387 San Juan, PR 00919-5387; State Insurance Fund Corporation C/O Wally de la Rosa Vidal, Esq., P.O. Box 365028 San Juan, PR 00936-5028; P.R. Department of Treasury Sección de Quiebras Oficina 424-B P.O. Box 9024140 San Juan, PR 00902-4140; The Secretary of the Treasury of the Commonwealth of Puerto Rico C/O María Mercedes Figueroa y Morgade, Esq. P.O. Box 9020192 San Juan, PR 00902-0192; Omar Cancio Martínez, Esq., Plaza San Francisco 201 De Diego Ave. Suite 211 San Juan PR 00927; Mr. John Ashcroft, Attorney General, US Department of Justice, 10 Constitution Ave., NW, Room 5111, Washington D.C. 20530; Internal Revenue Service, Mercantil Plaza Bldg., Rm. 914, 2 Ponce de León Ave. Stop 27 ½, San Juan, PR 00918-1693. H.S. Garcia, Esq. U.S. Attorney for the District of Puerto Rico at Torre Chardón, Suite 1201 350 Carlos Chardón Street San Juan, PR 00918; Beatriz T.

Saiz, Esq., Tax Division U.S. Department of Justice P.O. Box 227 Ben Franklin Station, Washington D.C. 20044; Agnes I. Cordero, Esq., at Torre Chardón, Suite 1201 350 Carlos Chardón Street San Juan, PR 00918; Larry S. Smith, District Manager for the United States Department of Agriculture Food Safety & Inspection Service, 100 Alabama Street 1924 Building, Ste 3r90 Atlanta Georgia 30303; The Secretary of the Puerto Rico Ports Authority, C/O Enzo Ramírez, Esq., G.P.O. Box 362829 San Juan, PR 00936 and to Popular Auto C/O Oneida Pérez, Esq. P.O. Box 366818, San Juan PR 00936.

I further certify that: Copy of this notice, without exhibits, has been served by First Class Mail to all creditors and other parties in interest, as detailed in the enclosed Modified Master Address List (INDUSTRIAS AVICOLAS DE PUERTO RICO MODIFIED MASTER ADDRESS LIST).

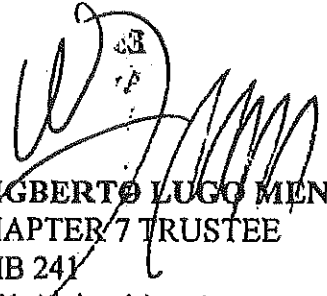
I further certify that: Copy of this notice, without exhibits, has been served by First Class Mail to all creditors and other parties in interest, as detailed in the enclosed Master Address List (PROCESADORA DE GRANOS DE PUERTO RICO, INC. MASTER ADDRESS LIST).

I further certify that: Copy of this notice, without exhibits, has been served by First Class Mail to all creditors and other parties in interest, as detailed in the enclosed Master Address List (PROCESADORA DE EMBUTIDOS DE PUERTO RICO, INC. MASTER ADDRESS LIST).

I further certify that copy of this Notice will be posted on the bulletin board at the Bankruptcy Court after it is filed with the Clerk's Office.

I further certify that a Summary providing Information of this Notice of Sale will be sent to the following newspapers for publication: El Nuevo Dia, The San Juan Star and El Vocero after this is filed with the Clerk's Office.

In Guaynabo, Puerto Rico, this 29th day of September of 2004.


WIGBERTO LUGO MENDER
 CHAPTER 7 TRUSTEE
 HMB 241
 3071 Alejandrino Ave.
 Guaynabo, P.R. 00969-7035
 Tel.: (787) 708-0333
 Fax: (787) 708-0330
wlugo@coqui.net

INDUSTRIAS AVICOLAS DE PUERTO RICO, INC.

CASE NO. 03-01146(SEK)

DISTRIBUTION PROPOSAL

Gross Proceeds on Sale		\$ 11,000,000	
Notarial & Recording Fees	\$ 15,000		
Lease Payments on Facilities			
PR Ports Authority	\$ 200,000		Rent Due for Lease Guanica
ASDA/PR Agriculture Dept.	<u>\$ 75,000</u>		Post-Petition Rent Due - Coamo
Notarial & Lease Payments		\$ 290,000	
Payments to Secured Creditors			
Centro Recaudación Ingresos Municipales	\$ 8,000		In Full Payment of Real Property Taxes
The Bank of Nova Scotia	\$ 8,152,000		In Full Payment of Secured Loan
Economic Development Bank	<u>\$ 2,000,000</u>		In Full Payment of Secured Loan
Dividends to Secured Creditors		\$ 10,160,000	
Balance for the Estate	5.00%	<u>\$ 550,000</u>	
Total Payments from Proceeds		\$ 11,000,000	

EXHIBIT 2

CASE NUMBER: Trademark application Serial No. 87016615.

TITLE: PRODUCTOS AVÍCOLAS DEL SUR, INC. v. TO RICOS, LTD.

PARTY OFFERING THIS EXHIBIT: PRODUCTOS AVÍCOLAS DEL SUR, INC.





to·ricos

Pescado Sabor Nuestro



Pollo Entero / Whole Chicken
Cold parts may be missing
Keep Refrigerated
Up to 12% retained water



Raised, Harvested and
Produced in Puerto Rico
Produced by TO-RICOS, LTD.
P.O. Box 1028 Road 14, San Juan
Adelanto, P.R. 00909





FERNANDO ECHEGARAY <lcdо.echegaray@gmail.com>

NOTICE OF OPPOSITION OF TRADEMARK APPLICATION SERIAL NUMBER 87016615

Kay Collins <kcollins@cp2law.com>

6 de octubre de 2016, 12:17

Para: "LCDO. FERNANDO ECHEGARAY" <lcdо.echegaray@gmail.com>

Received with thanks.

Warm Regards,

Kay Collins

Kay L. Collins, Esq.

Coan, Payton & Payne, LLC

(970) 225-6700

Email: kcollins@cp2law.com

Website: www.cp2law.com

Offices in Fort Collins, Denver and Greeley

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From: LCDO. FERNANDO ECHEGARAY [mailto:lcdо.echegaray@gmail.com]

Sent: Thursday, October 6, 2016 7:47 AM

To: Kay Collins <kcollins@cp2law.com>

Cc: FERNANDO ECHEGARAY <lcdo.echegaray@gmail.com>

Subject: Re: NOTICE OF OPPOSITION OF TRADEMARK APPLICATION SERIAL NUMBER 87016615

[Texto citado oculto]



FERNANDO ECHEGARAY <lcdo.echegaray@gmail.com>

**NOTICE OF OPPOSITION OF TRADEMARK APPLICATION SERIAL
NUMBER 87016615**

Kay Collins <kcollins@cp2law.com>

5 de octubre de 2016, 14:59

Para: "LCDO. FERNANDO ECHEGARAY" <lcdo.echegaray@gmail.com>

Dear Fernando,

Please send the full Notice of Opposition, as revised, via email and we will accept service through electronic communication. Please also advise us if PAS will accept service from us through electronic communication directed to this email address for this matter.

Warm Regards,

Kay Collins

Kay L. Collins, Esq.

Coan, Payton & Payne, LLC

(970) 225-6700

Email: kcollins@cp2law.com

Website: www.cp2law.com

Offices in Fort Collins, Denver and Greeley

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Updated Delivery Day: Wednesday, October 5, 2016

Product & Tracking Information

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Features:

Certified Mail™

Return Receipt

See tracking for related item: 9590940217316074793549

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DATE & TIME	STATUS OF ITEM	LOCATION
October 5, 2016 , 11:40 am	Delivered, Front Desk/Reception	FORT COLLINS, CO 80524

Your item was delivered to the front desk or reception area at 11:40 am on October 5, 2016 in FORT COLLINS, CO 80524.

October 5, 2016 , 10:10 am	Sorting Complete	FORT COLLINS, CO 80524
October 5, 2016 , 3:50 am	Arrived at Unit	FORT COLLINS, CO 80521
October 3, 2016 , 10:04 am	Departed USPS Facility	DENVER, CO 80266
October 3, 2016 , 8:17 am	Arrived at USPS Destination Facility	DENVER, CO 80266
October 1, 2016 , 12:32 pm	Departed USPS Facility	SAN JUAN, PR 00936
September 30, 2016 , 9:52 pm	Arrived at USPS Origin Facility	SAN JUAN, PR 00936
September 30, 2016 , 4:31 pm	Departed Post Office	SANTA ISABEL, PR 00757
September 30, 2016 , 12:54 pm	Acceptance	SANTA ISABEL, PR 00757

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